

A-G7 9 @ @ B9 CI G'H9 LH'fl 97 : cfa ' - - L

PAGE 1 / 3

NAME OF COMMITTEE (In Full)  
Independence USA PAC

FEC IDENTIFICATION NUMBER  
C00532705

Mailing Address PO Box 1510

City	State	ZIP Code
New York	NY	10150

May 30, 2017

Mr. Joshua Rebollozo  
Campaign Finance Analyst  
Reports Analysis Division  
Federal Election Commission  
999 E Street NW  
Washington, D.C. 20463

Dear Mr. Rebollozo:

On behalf of Independence USA PAC (the "Committee"), we submit this Miscellaneous Report (Form 99) in response to your three letters, each dated April 25, 2017, requesting additional information regarding the Committee's Amended September Monthly Report (?September Report?), October Monthly Report (?October Report?), and 30-Day Post-General Report (?Post-General Report?). Where amended reports are appropriate, the Committee will file those separately.

#### September Report

The Committee responds as follows to the four numbered items raised in regard to its September Report:

1. Your letter asks about certain independent expenditures supporting Sen. Toomey, which are listed on the first attachment page, and were not itemized on Schedule E of the September Report. Each of these expenditures, however, was timely reported on 48-hour reports and thus were available to the public well before the September Report was filed and months before the election. In addition, the transaction for \$22,000 was publicly disclosed twice before the September Report was filed ? once on the 48-hour report and again on Schedule B (SB21B.5120) of the Committee's Amended July Monthly Report as an expenditure for ?media consulting for future communication.? While the transaction for \$9,646.21 was omitted from Schedule E of the September Report, it was disclosed on the same report as a debt owed to Revolution Media.

The omission of these expenditures from Schedule E of the Amended September Report was due to an undetected malfunction in the Commission's filing software, FECFile , which normally auto-populates Schedule E of a monthly report with all independent expenditures reported by the same Committee on previously-filed 24- and 48-hour reports.

The Committee will amend the September Report to add these expenditures on Schedule E, with the exception of a \$25,500 in-kind polling expense, which due to a minor administrative error was reported twice on separate 48-hour reports ? correctly on the report for the August 3 Toomey ad, but erroneously on the report for the August 12 ad.

2. The second request concerns three transactions that appear on the Committee's Schedule E as independent expenditures, but that you suggest were not disclosed on 48-hour reports. In fact, the transactions were properly disclosed as a lump sum payment to the vendor on a 48-hour report filed on August 25 (ID SE.5123 and SE.5124). Therefore, no amendment is necessary.

3. Your third request asks why debts incurred to SKDKnickerbocker in the amount of \$69,703.50 do not appear on Schedule E of the September Report. These expenses were timely and accurately disclosed on a 24-hour report, filed by the Committee on August 24, in regard to candidate, Val Demings. They are also disclosed on Schedule D of the September Report (SD10.5366). The omission of this transaction from Schedule E was due to an undetected malfunction in the Commission's filing software, FECFile, which normally auto-populates Schedule E of a monthly report with independent expenditures reported on previously filed 24- and 48-hour reports. The Committee will amend the September Report to add this transaction on Schedule E.

\*\*\*\*\*

**A-G79 @B9CI G'H9LH'fl 97 : cfa ' - - L**

PAGE 2 / 3

NAME OF COMMITTEE (In Full)  
**Independence USA PAC**FEC IDENTIFICATION NUMBER  
C00532705

Mailing Address PO Box 1510

City	State	ZIP Code
New York	NY	10150

4. Your final request regarding this report asks about an increase in debt reported on Schedule D, an entry for zero dollars on Schedule D, and expenditures for Media Consulting that were not reported on Schedule E.

a. After the September Report was filed, the Committee received an invoice from a vendor in the amount of \$161,705.46, and shortly thereafter, amended its September Report to disclose this amount as debt. Individual Commissioners have expressed differing views concerning when a debt is incurred for reporting purposes, with one view being that a debt is incurred when an invoice is received (or the debt is past due), and therefore should be disclosed on the next report covering that reporting period. Under that view the Committee could have waited to report the increase in debt on its October Monthly Report, rather than following a more conservative approach, as it did, by amending the September Report.

b. The Committee understands that transactions with no monetary value do not have to be itemized on its reports. Here, however, the \$0 entry was automatically entered on the report by FECFile and could not be removed. The Committee had amended a 48-hour report dated August 5 to reallocate a reported expenditure among different ads, but the software system forced entry of the transaction as originally reported with a \$0 amount attached to it.

c. Finally, the letter asks whether Media Consulting costs reported by the Committee should have been reported as independent expenditures on Schedule E. These expenses were for research related to possible ads that the Committee decided not to finalize or disseminate. As such, these costs were not reportable as independent expenditures.

#### October Report

The Committee responds as follows in regard to its October Report:

1. Your first request seeks clarification regarding the dates of dissemination for independent expenditures identified on Schedule E. The reported dates of dissemination were the result of clerical errors. The line for September 6, 2016 should read September 5, 2016; the line items for September 23, 2016 should read September 27, 2016. The Committee will amend its reports to correct the dates for these expenditures.

2. The second item asks whether Media Consulting costs reported by the Committee on Schedule B of its October Report should have been reported as independent expenditures on 24- or 48-hour reports. No such reporting was required. These expenses were for research related to possible ads that the Committee decided not to finalize or disseminate. As such, these costs were not reportable as independent expenditures.

#### Post-General Report

The Committee responds as follows to the two numbered items raised in regard to its Post-General Report:

1. Your first request asks about \$16,622.23 reported as debt to SKDKnickerbocker on Schedule D but not included on Schedule E of the Post-General Report. This transaction was publicly disclosed three times ? first on the Committee?s October 25, 2016, 24-hour report, then as debt on the 2016 Post-General report and again on Schedule D and E of the 2016 Year-End report when the debt was paid. The omission of this expenditure from Schedule E of the Post-General Report was due to an undetected malfunction in the Commission?s filing software, FECFile, which normally auto-populates Schedule E with independent expenditures reported on previously filed 24- and 48-hour reports. Nonetheless, as noted above, the information was available to the public before the Post-General Report was filed and well before the election.

2. Your second request asks whether independent expenditures reported on Schedule E were timely disclosed on a 24-hour report. The entry on Schedule E relates to an ad opposing Senator Kelly Ayotte, with a dissemination date of October 20, 2016. The 24-hour report was due at 11:59 p.m. E.S.T. on Friday October 21, 2016. Due to a miscommunication with the vendor,

A-G7 9 @G B9CI G'H9LH'fl 97 : cfa ' - - L

NAME OF COMMITTEE (In Full)  
Independence USA PAC

FEC IDENTIFICATION NUMBER  
C00532705

Mailing Address PO Box 1510

City	State	ZIP Code
New York	NY	10150

it was not until Tuesday, October 25, that the Committee became aware of the facts triggering its obligation to file a 24-hour report. A 24-hour report was filed that same day ? just two business days (and four calendar days) after the due date, and two weeks before the election. For these reasons, and because this was not the first ad the Committee aired during the 2016 election cycle opposing Sen. Ayotte, there was no harm to the public?s informational interest. Moreover, the costs related to this communication were an insubstantial part ? only about 6.5% - of the Committee?s total disbursements for the election cycle.

Respectfully Submitted,

Lawrence H. Norton  
William A. Powers  
Attorneys for Independence USA PAC